

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:18-cr-00013-RLY-MPB
)	
JASON SHAWN MCNARY,)	-01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On April 5, the Court held an Initial Hearing on a Warrant for Violation of Supervised Release. Defendant McNary appeared in person with his appointed counsel Ron Freson. The government appeared by Lauren Wheatley, Assistant United States Attorney. The United States Probation Office appeared by Officer Katrina Sanders.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant McNary of his rights and provided him with a copy of the petition. Defendant McNary waived his right to a preliminary hearing.
2. After being placed under oath, Defendant McNary admitted violations 1, and 2. ([Docket No. 25](#)).
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

	Violation Number	Nature of Noncompliance
	1	<p>"The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance."</p> <p>On March 7, 2019, Jason McNary tested positive for amphetamines. He denied use, but his sample was confirmed positive for methamphetamine. As previously reported to the Court, Jason McNary tested positive for amphetamines on March 15, April 24, May 2, and May 11, May 18, May 20, and May 21, 2018.</p>
	2	<p>"The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any controlled substance or paraphernalia related to any controlled substance..."</p> <p>On March 27, 2019, Jason McNary admitted he was intoxicated on or around March 12, 2019. He explained his level of impairment led to him smoking methamphetamine.</p>

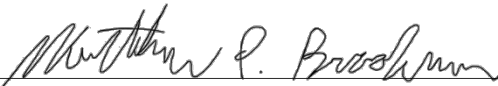
4. The parties stipulated that:

- (a) The highest grade of violation is a Grade B violation.
- (b) Defendant's criminal history category is I.
- (c) The advisory range of imprisonment applicable upon revocation of supervised release, therefore, is 4-10 months' imprisonment.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he be sentenced to custody of the Attorney General or his designee for a period of ten (10) months with no further supervision upon release from imprisonment.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Dated: April 8, 2019



Matthew P. Brookman
United States Magistrate Judge
Southern District of Indiana

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